

BEFORE THE INVESTIGATIVE PANEL OF THE  
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION  
STATE OF FLORIDA

INQUIRY CONCERNING NO. 03-119  
RE: JUDGE DAVID M. GOODING  
SUPREME COURT CASE NUMBER SC04-133

**ANSWER TO FORMAL CHARGES 1 AND 2**

Respondent David M. Gooding (referred to herein as “Judge Gooding”), hereby answers the Formal Charges filed against him by the Florida Judicial Qualifications Commission (“the Commission”) as follows:

1. Judge Gooding admits that he incurred expenses at a time when his campaign account did not have sufficient funds on deposit to cover those expenses.

2. Judge Gooding admits that he deposited money into his campaign account, from his personal resources, after the deadline for receiving campaign contributions. Judge Gooding denies the remaining allegations of Paragraph 2.

3. The allegations in Paragraph 3 are the subject of Respondent’s Motion to Dismiss. Accordingly, an answer to the allegations of Paragraph 3 is stayed pending resolution of Respondent’s Motion to Dismiss.

4. The allegations in Paragraph 4 are the subject of Respondent’s Motion to Dismiss. Accordingly, an answer to the allegations of Paragraph 4 is stayed pending resolution of Respondent’s Motion to Dismiss.

**DEFENSES AND AFFIRMATIVE DEFENSES TO THE**  
**ALLEGATIONS IN PARAGRAPHS 1 AND 2**

1. The Commission's claims are barred, in whole or in part, for lack of subject matter jurisdiction. Paragraphs 1 and 2 of the Notice of Formal Charges allege violations of Florida's campaign finance laws. As stated in Section 106.25, Florida Statutes, jurisdiction to investigate and determine violations of Chapters 104 and 106 of the Florida Statutes - those chapters relating to campaign finance laws - is vested in the Florida Elections Commission. Therefore, the Commission's investigation of alleged campaign finance violations intrudes on the powers and prerogatives of another, co-equal branch of government. Such intrusion is not necessary to the exercise of judicial power in this case.

2. The Commission's claims are barred, in whole or in part, by the doctrine of laches.

**LILES, GAVIN, COSTANTINO &  
MURPHY**

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## Gooding

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished to MARVIN E. BARKIN, ESQ. and MICHAEL K. GREEN, ESQ., Special Counsel for The Florida Judicial Qualifications Commission, 2700 Bank of America Plaza, 101 East Kennedy Boulevard, PO Box 1102, Tampa, FL 33601-1102, and THOMAS C. McDONALD, JR., ESQ., 1904 Holly Lane, Tampa, FL 33629, Special Counsel for The Florida Judicial Qualifications Commission, VIA U.S. MAIL this \_\_\_\_\_day of February, 2004.

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Attorney